

Appl. No. 09/720,230
Amendment and/or Response
Reply to Office action of 6 August 2004

Page 12 of 14

REMARKS

Claims 2-44 are pending in this application.

The applicants respectfully traverse the finality of this Office action.

The Examiner's attention is requested to MPEP 706.07(a) "Final Rejection, When Proper on Second Action", wherein it is stated:

"Under present practice, second or any subsequent actions on the merits shall be final, *except* where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97 (c)".

The prior Office action did not reject claim 13, and thus the rejection of claim 13 in this second Office action is a new ground of rejection. Claim 13 was amended per the Examiner's directions to rewrite the claim in independent form, including all limitations of its base claim and any intervening claims. Claim 13 had been dependent upon claim 1, and the amendment was a literal "cut and paste" of claim 1 into claim 13, and thus this amendment could not have necessitated the new ground of rejection. An information disclosure statement has not been filed during the period set forth in 37 CFR 1.97. Therefore, in accordance with MPEP 706.07(a), the finality of this second action is inappropriate.

If the application is not deemed to be allowable based on the remarks below, the applicants respectfully request that the finality of this Office action be withdrawn.

The applicant thanks the Examiner for providing information about recommended section headings. However, the applicants respectfully decline to add the headings. Section headings are not statutorily required for filing a non-provisional patent application under 35 USC 111(a), but per 37 CFR 1.51(d) are only guidelines that are suggested for applicant's use. (See Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77").

ITOM 001128 Final 4.806

Atty. Docket No. ItoM 001128

Appl. No. 09/720,230
Amendment and/or Response
Reply to Office action of 6 August 2004

Page 13 of 14

The Office action rejects claim 13 under 35 U.S.C. 103(a) over Sears (USP 6,122,492), Janning (USP 6,166,643), and Waraksa et al. (USP 5,515,036, hereinafter Waraksa). The applicant respectfully traverses this rejection.

Claim 13 claims a communication device with a power amplifier comprising a resonance circuit and an excitation circuit comprising a charge pump that supplies an excitation current signal that is phase and/or frequency coupled with the modulated carrier signal.

The Examiner's attention is requested to MPEP 2142, wherein it is stated:

"To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The Office action acknowledges that Sears does not teach a charge pump that supplies an excitation current signal that is phase and/or frequency coupled with the modulated carrier signal (Office action, page 4, lines 6-11), and apparently relies upon Janning for this teaching. The applicant respectfully notes, however, that Janning does not teach a charge pump, and the Office action does not provide a cite to Janning for this teaching.

Because neither Sears, nor Janning, nor Waraksa, individually or collectively, teach or suggest an excitation circuit comprising a charge pump that supplies an excitation current signal that is phase and/or frequency coupled with a modulated carrier signal, as specifically taught and claimed by the applicant, the applicant respectfully requests the Examiner's reconsideration of the rejection of claim 13 under 35 U.S.C. 103(a) over Sears, Janning, and Waraksa.

Appl. No. 09/720,230
Amendment and/or Response
Reply to Office action of 6 August 2004

Page 14 of 14

In view of the foregoing, the applicant respectfully requests that the Examiner withdraw the rejections of record, allow all the pending claims, and find the present application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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804-493-0707